

Senate Bill No. 513

CHAPTER 337

An act to amend Sections 47021 and 47026 of, to add Article 1.5 (commencing with Section 19218) to Chapter 5 of Part 3 of Division 9 of, and to add and repeal Section 19227 of, the Food and Agricultural Code, relating to regulatory fees, and making an appropriation therefor.

[Approved by Governor September 26, 2011. Filed with
Secretary of State September 26, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 513, Cannella. Renderers and farmers' markets: regulatory fees.

Existing law defines rendering as the recycling, processing, and conversion of animal and fish byproducts and carcasses from the meat, poultry, and seafood industries, as well as used kitchen grease into fats, oils, and proteins that are used primarily as feed in the animal, poultry, and pet food industries. Existing law requires every person engaged in the business of rendering to obtain a license from the Department of Food and Agriculture for each rendering plant, establishes the qualifications for obtaining that license, and authorizes a peace officer or any employee of the department to inspect any premises maintained by a renderer that is licensed pursuant to these provisions.

This bill would establish in state government a Rendering Industry Advisory Board to advise and to make recommendations to the Secretary of Food and Agriculture regarding, among other things, licensing matters, regulations, procedures for employment, training, supervision, and compensation of inspectors and other personnel, and the rate and collection of license fees and penalties related thereto. The board would consist of 7 members, appointed by the Secretary of Food and Agriculture, 6 of whom are licensed pursuant to the provisions described above and are subject to payment of the rendering program licensing fees. The bill would specify the term of office of members of the board and would require the board to meet at least once a year. The bill would require the secretary, in adopting regulations and procedures, to accept the recommendations of the board if he or she finds them to be practicable and in the interest of the rendering industry and the public.

Existing law requires every person engaged in the business of rendering or of operating a collection center to obtain a license from the Department of Food and Agriculture for each rendering plant or collection center operated, as specified. Existing law requires licensees to keep specified records and authorizes the department to suspend or revoke a registration certificate under specified circumstances. Existing law regulates transporters of inedible kitchen grease. Law operative until January 1, 2010, and repealed

as of January 1, 2011, authorized the collection of administrative fees, as specified, from renderers and collection centers in connection with rendering. Other provisions of existing law require the funds collected to be deposited into a special fund, the continuously appropriated Food and Agriculture Fund.

This bill would reenact the provisions repealed as of January 1, 2011. The bill would make these provisions inoperative as of July 1, 2015. By reenacting these provisions requiring collection and deposit of funds into a continuously appropriated fund, this bill would make an appropriation.

Existing law requires, until January 1, 2012, that every operator of a certified farmers' market remit to the department a fee equal to the number of agricultural producers participating on each market day for the entire previous quarter which shall be used by the department upon appropriation by the Legislature, as specified.

This bill would extend these provisions until January 1, 2014.

Existing law provides that California farmers may transport for sale and sell California-grown fresh fruits, nuts, and vegetables that they produce directly to the public at a certified farmers' market, as specified. Existing law provides that it is unlawful for any person operating under these provisions to commit certain acts related to the conduct of farmers' markets. Existing law, until January 1, 2012, provides that in lieu of prosecution, but not precluding suspension or revocation of certified producer's certificates or certified farmers' market certificates, the secretary or the county commissioner may levy a civil penalty against a person who violates these provisions or any regulation implemented pursuant to these provisions, as specified.

This bill would extend the provision authorizing the civil penalty until January 1, 2014.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 1.5 (commencing with Section 19218) is added to Chapter 5 of Part 3 of Division 9 of the Food and Agricultural Code, to read:

Article 1.5. Rendering Industry Advisory Board

19218. (a) There is in state government a Rendering Industry Advisory Board consisting of seven persons, appointed by the secretary, six of whom are licensed under this chapter and are subject to payment of the rendering program licensing fees in accordance with this chapter, including, but not limited to, licensed renderers, dead haulers, and transporters of inedible kitchen grease. The secretary shall appoint one other member to the board who shall be a public member. Any vacancy in the office of a public member of the board shall be filled by appointment by the secretary.

(b) At least one of the six licensee members appointed by the secretary pursuant to subdivision (a) shall have experience and expertise in alternative uses of rendered products, including, but not limited to, use as energy, alternative fuels, lubricants, and other nontraditional uses.

(c) The public member appointed by the secretary pursuant to subdivision (a) shall have experience and expertise in one or more of the following:

- (1) Water quality.
- (2) Publicly owned treatment works and water infrastructure.
- (3) Law enforcement.

(d) The members of the board shall receive no salary, but are entitled to payment of necessary traveling expenses in accordance with Department of Personnel Administration rules and regulations. These expenses shall be paid out of appropriations made to the department for that purpose.

19218.1. The term of office of the members of the board is three years. When the board is first appointed, three members shall be appointed for three years, two members for two years, and two members for one year. Thereafter, appointments shall be for full three-year terms. Vacancies shall be filled for an unexpired term.

19218.2. The board shall elect a chairperson, and from time to time any other officers as it may deem advisable.

19218.3. (a) The board shall meet at the call of its chairperson or the secretary or at the request of any three members of the board. The board shall meet at least once a year.

(b) A quorum of the board shall be five members. A vote of the majority of the members present at a meeting at which there is a quorum shall constitute an act of the board.

(c) No member, or any employee or agent thereof, shall be personally liable for the actions of the board or responsible individually in any way for errors in judgment, mistakes, or other acts, either by commission or omission, except for his or her own individual acts of dishonesty or crime.

19218.4. (a) The board shall advise the secretary and may make recommendations to the secretary concerning all of the following:

- (1) Adoption, modification, and repeal of regulations and procedures.
- (2) Procedures for employment, training, supervision, and compensation of inspectors and other personnel.
- (3) Rate and collection of license fees and penalties related thereto.
- (4) Acquisition and use of equipment.
- (5) Posting and noticing changes in bylaws, general procedures, or orders.
- (6) All matters pertaining to this chapter, including, but not limited to, the inspection and enforcement program, annual budget, necessary fees to provide adequate services, and regulations required to accomplish the purposes of the chapter.

(b) The board shall keep accurate books and records of its activities, which shall be subject to annual audit by an auditing firm approved by the secretary. The audit shall be made a part of an annual report submitted to all persons licensed under this chapter. The books and records shall be

available for audit during regular business hours upon request of the secretary.

19218.5. Persons subject to this chapter shall not have access to any information in the possession of any entity or entities established or designated pursuant to this chapter that would disclose proprietary information regarding any other person subject to this article, including, but not limited to, material test results, individual fee or license payments, rendering process, or formula information.

19218.6. (a) The secretary shall adopt regulations to be used by the board to administer this article.

(b) In adopting regulations and procedures, the secretary shall accept the recommendations of the board if he or she finds them to be practicable and in the interest of the rendering industry and the public.

19218.7. The secretary shall, within 30 days of receiving a recommendation from the board in accordance with this article, provide the board with notice of the acceptance of the recommendation or with a written statement of the reasons for denial if he or she does not accept the recommendation.

SEC. 2. Section 19227 is added to the Food and Agricultural Code, to read:

19227. (a) In addition to the license fee required pursuant to Section 19225, the department may charge each licensed renderer and collection center an additional fee necessary to cover the reasonable costs of administering Article 6 (commencing with Section 19300) and Article 6.5 (commencing with Section 19310). The additional fees authorized to be imposed by this section may not exceed three thousand dollars (\$3,000) per year per each licensed rendering plant or collection center.

(b) The secretary shall fix the annual fee established pursuant to this section and may fix different fees for renderers and collection centers. The secretary shall also fix the date the fee is due and the method of collecting the fee. If an additional fee is imposed on licensed renderers pursuant to subdivision (a) and an additional fee is imposed on registered transporters pursuant to subdivision (a) of Section 19315, only one additional fee may be imposed on a person or firm that is both licensed as a renderer pursuant to Article 6 (commencing with Section 19300) and registered as a transporter of inedible kitchen grease pursuant to Article 6.5 (commencing with Section 19310), which fee shall be the higher of the two fees.

(c) If the fee established pursuant to this section is not paid within one calendar month of the date it is due, a penalty shall be imposed in the amount of 10 percent per annum on the amount of the unpaid fee.

(d) This section shall become inoperative on July 1, 2015, and, as of January 1, 2016, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2016, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 47021 of the Food and Agricultural Code is amended to read:

47021. (a) Every operator of a certified farmers' market shall remit to the department, within 30 days after the end of each quarter, a fee equal to the number of certified producer certificates and other agricultural producers participating on each market day for the entire previous quarter. The fee shall be established by January 1 of each year by the department upon the receipt of a budget recommendation from the advisory committee. The fee shall not exceed sixty cents (\$0.60) for each certified producer certificate and other agricultural producers participating on each market day. A certified farmers' market may directly recover all or part of the fee from the participating certified and other agricultural producers.

(b) Any operator of a certified farmers' market who fails to pay the required fee within 30 days after the end of the quarter in which it is due, shall pay to the department a monthly interest charge on the unpaid balance and a late penalty charge, to be determined by the department and not to exceed the maximum amount permitted by law.

(c) All fees collected pursuant to this section shall be deposited in the Department of Food and Agriculture Fund. The money generated by the imposition of the fees shall be used, upon appropriation by the Legislature, by the department, to cover the reasonable costs to carry out this chapter, including all of the following actions undertaken by the department:

- (1) The coordination of the advisory committee.
- (2) The evaluation of county enforcement actions and assistance with regard to multiple county enforcement problems.
- (3) The adoption of regulations to carry out this chapter.
- (4) Hearing appeals from actions taken by county agricultural commissioners to enforce this chapter.
- (5) The review of rules or procedures established by a certified farmers' market and the issuance of advisory opinions and the provision of informal hearings pursuant to Section 47004.1 as to whether the rules or procedures are consistent with this chapter and implementing regulations.
- (6) The maintenance of a current statewide listing of certified farmers' markets with schedules of operations and locations.
- (7) The maintenance of a current statewide listing of certified producers.
- (8) The dissemination to all certified farmers' markets information regarding the suspension or revocation of any producer's certificate and the imposition of administrative penalties.
- (9) Other actions, including the maintenance of special fund reserves, that are recommended by the advisory committee and approved by the department for the purpose of carrying out this chapter.

(d) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 4. Section 47026 of the Food and Agricultural Code is amended to read:

47026. This article shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.